

REPORTABLE

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad**

REGIONAL BENCH-COURT NO. 1

Customs Misc. Application (Stay) No. 10647 of 2025

(On behalf of Applicant)

in

Customs Appeal No. 11511 of 2025 – DB

(Arising out of Order in Appeal No. MUN-CUSTM-000-APP- 399 to 400 dated 14.11.2025 passed by the Commissioner (Appeals), Customs- Ahmedabad)

COMMISSIONER OF CUSTOMS– Mundra CustomsAppellant

Office of the Pr. Commissioner of Customs,
Custom House, Mundra, Kutch,
Mundra Port and Special Economic Zone,
Mundra, Kachchh, Gujarat-370421

VERSUS

Shree Khatu Shyam Steel & Tubes LLP

.....Respondent

Ground Floor, Plot No. 956, KH No. 154,
Village-Pooth Khurd, North West Delhi,
West Delhi-110039

APPEARANCE:

Shri Aakash Singh, Superintendent (AR) for the Appellant
Shri Manish Jain, Advocate for the Respondent

CORAM:

HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10060/2026

DATE OF HEARING: 13.01.2026

DATE OF DECISION: 04.02.2026

SOMESH ARORA

In this case, department is in appeal against impugned order in which Commissioner (Appeals) has allowed appeal of the respondent. As per the facts, respondent (M/s Shree Khatu Shyam Steel & Tubes LLP) filed Bill of Entry No. 8109186 dated 31.01.2025 for import of Cold Rolled Stainless Steel (CRSS) Coils grade J2 vide House Bill of Lading No. FS241205001 dated 03.12.2024 at Mundra Port through their Customs Broker M/s Oriental Trade Links.

1.1 Ministry of Steel has issued letter NOC No. NOC2024004662_A dated 16.12.2024 on the basis of House Bill of Lading No. FS241205001 dated 03.12.2024.

1.2 It was alleged by the department that on tracking the vessel on Shipping Line Website, it was found that the containers were laden on vessel on 04.01.2025, whereas, House Bill of Lading was issued on 03.12.2024. In view of above, goods covered under impugned B/E were put on hold to rule-out any possibility of circumvention of directive issued by the Ministry of Steel for issuance of NOC on one-time basis for shipments where Bill of Lading has been generated on or before 3rd of December 2024.

1.3 An email dated 07.02.2025 was sent to shipping line M/s Wan Hai Lines (India) Pvt. Ltd. for providing copy of Master BL issued against House BL. No. FS241205001 dated 03.12.2024 and port of call list of vessel BAO HANG YUN, Voyage No. 28. Vide email dated 07.02.2025, the shipping line provided copy of Master BL No. 142E516966 dated 04.01.2025 issued in case of M/s Shree Khatu Shyam Steel & Tubes LLP and further provided copy of port of call list of Vessel BAO HANG YUN wherein it is mentioned that the Vessel reached on Guangzhou Port, CHINA on 02.01.2025 and departed on 04.01.2025.

1.4 The Goods covered under B/E No. 8109186 dated 31.01.2025 were examined on 10.02.2025 in the presence of Shri Chauhan Ranjeet Kailashchand, G Card holder of the CB and Shri Ramashankar R Prasad, Sr. Executive, (Operations) M/s Mundra Container Freight Station Pvt. Ltd. As per the weightment slip of the containers generated at CFS weighbridge, Net weight found was 4,12,720 Kgs. as against declared net weight of 4,12,524 Kgs. Hence, total 196 kgs excess weight was found.

1.5 During examination, Positive Metal Identification (PMI) test was conducted and test results were taken which showed that in all coils stuffed in 15 containers, Nickel content is in the range of 0.8-1.3%, chromium content is found in the range of 12.0-14.0% and Manganese is in the range of 7.5-10%. Further, from the open source available on internet, the Stainless Steel Coil grade J2 should contain following chemical composition: -

Grade	C	Mn	P	Cr	Ni	S	Si
J2	0.15- 0.36%	7.5-10	≤ 0.045	12.0- 14.0	0.8- 1.3	≤ 0.03	≤1.0

All major components i.e. Nickel, Chromium, Manganese etc. of goods imported vide Bill of Entry No. 8109186 dated 31.01.2025 are in line with chemical composition of Stainless Steel Coil J2 Grade, it appeared to the department that goods were as per declaration i.e. CRSS Coils Grade J2 and their value found to be fair as per contemporary data available on NIDB.

1.6 It was alleged that Ministry of Steel vide circular dated 20.10.2023 made mandatory for all the steel importers to apply and seek clarification on the TCQCO Portal for each and every steel consignment which is imported in the country without BIS license/certification. It further issued an Office Memorandum dated 03.01.2025 w.r.t. circumvention of directive issued by Ministry of Steel for issuance of NOC's on one-time basis for shipments where Bill of Lading has been generated on or before 03rd of December 2024.

1.7 An email dated 13.02.2025 was sent by the department to Dy. Secretary, Ministry of Steel for further clarification which vide email dated 20.02.2025 intimated that: -

"The initial decision to grant a one-time NOC/exemption for steel imports applied only to cases where the steel had already arrived at Indian ports or the Master Bill of Lading had been generated on or before December 3, 2024. This one-time provision was closed on December 21, 2024.

Paragraph 2 highlights concerns that some importers are attempting to circumvent this requirement by obtaining a House Bill of Lading dated on or before December 3, 2024, while the actual shipment (evidenced by the Master Bill of Lading) occurred after that date. This practice is not in compliance with the one-time exemption provision.

Therefore, to reiterate, the one-time NOC/exemption applied exclusively to shipments where the Master Bill of Lading was issued on or before December 3, 2024. House Bills of Lading with earlier dates for shipments occurring after December 3, 2024, do not qualify for this exemption. The request in paragraph 3 aims to prevent such fraudulent circumventions."

2. The learned AR apart from putting forth the ground of appeals, places reliance on circular No. S-20011/14/2021/TECH of Ministry of Steel dated 26.10.2023 which was issued prior to filing of B/E in the present matter. The circular is as reproduced below:-

F. No. S-20011/14/2021-TECH
Ministry of Steel
Government of India
Technical Division

Udyog Bhawan, New Delhi
Dated: 26 October, 2023

CIRCULAR

"Subject: All the steel importers importing steel without BIS license to mandatorily apply and seek clarification from Ministry of Steel through QCO Portal for each & every imported steel consignment.

The Ministry of Steel has notified Steel and Steel Products (Quality Control) Order under the BIS Act, 2016. Periodically the Ministry issues such QCO orders to cover more grades of steel and related products.

The Quality Control Order mandates that all the steel products Imported into the country must be having BIS license/ certification and accompanied with Mill Test Certificate and be marked with ISI and BIS license number.

For smooth implementation of the Quality Control Order, the Ministry of Steel has constituted a Technical Committee (w.e.f. October 2018) for examination and analysis of the application(s) received for issuance of clarification, whether the product(s) which are being imported without BIS certification are covered under Steel QCO or not.

For issuing of the said clarifications to the steel importers, the Ministry of Steel has launched a dedicated portal, known as TCQCO Portal (<https://tc-qco.steel.gov.in/to-qco>) w.e.f. August 2020,

It is mandatory for all the steel importers to apply and seek clarification on the aforesaid dedicated portal for each & every steel consignment which is imported in the country without BIS license/ certification. It is clarified that the Ministry of Steel issues clarification for each single import consignment. In this regard it is further clarified for each & every consignment the importer need submit fresh application through TCQCO portal, unless stated otherwise in the clarification issued.

The Information regarding the Technical Committee Meeting (<https://steel.gov.in/technical-committee>) and Steel Quality Control Order (<https://steel.gov.in/quality-control-orders>) are available on the Ministry of Steel's website as well as on the TCQCO Portal."

2.1 The circular has been relied upon by the department to indicate that the importers were required to apply and seek clarification for each and every steel consignment through the portal. It is also mentioned that Ministry of Steel has constituted a Technical committee w.e.f. October, 2018 for examination and analysis of applications received for issue of clarification as to whether the products which have been imported without BIS certification are covered under Steel quality control order or not?

3. On the other hand, learned Advocate referred to the decision of M/s Shiv Shakti Trading Company Vs. Commissioner of Customs (Preventive) & Others reported at 2016 (4) TMI 408- Delhi High Court and emphasized on para 23 of this ruling which is reproduced below:-

"23. *Considering that the time limits for issuance of an SCN in terms of Section 110 (2) are sacrosanct, if at the time of seizure of the goods there is waiver by the person from whom the goods were seized, or the owner of the right to be given an SCN, in the expectation of an expedited adjudication, then the reasonable time within which the adjudication should be completed should be six months from the date of such seizure. If, despite the waiver of the right to be given an SCN, no adjudication order is passed within the period of six months from the date of seizure, the person waiving the right to be given an SCN can no longer be held bound by such waiver. The consequence would be the same as is envisaged by Section 110 (2) of the Act i.e., the immediate unconditional release of the goods in favour of the person from whom the goods have been seized. Notwithstanding such unconditional release, it will still be open to the Department to proceed under Section 124 and complete the adjudication for which there is no specified time limit."*

3.1 It was thus his point of emphasis that despite waiver of the right to be given a show cause notice, no order is passed within period of 6 months from the date of seizure, the person waiving the right to be given a show cause notice can no longer be bound by such waiver. And the consequences shall be the same as are stipulated in Section 110 (2) of the Act. He pointed out that in the same para, it has been mentioned that though goods shall be liable to

be released unconditionally, it will open to the department to proceed under Section 124 and complete the adjudication for which there is specified time limit. He therefore emphasized that despite unconditional waiver of the right to be given SCN, if seizure is not adjudicated within 6 months of the date of seizure, the goods are liable to be released but proceeding under Section 124 can continue for the purposes of adjudication without any time limit. He dealt with the allegation which was initially raised against the respondent in the following manner:-

3.2 The Respondent had tried to clear CRSS coils of J2 grade on the basis of House Bill of Lading FS241205001 dated 03.12.2024 and letter NOC2024004662_A dated 16.12.2024 issued by the Ministry of Steel against House Bill of Lading. However, in light of OM dated 03.01.2025 issued by Ministry of Steel and further clarification dated 20.02.2025 received from the Ministry of Steel, one time NOC/exemption applied exclusively to shipments where the Master Bill of Lading was issued on or before December 3, 2024. House Bill of Lading with earlier dates for shipments occurring after December 3, 2024 do not qualify for this exemption. Hence, goods covered under B/E No. 8109186 dated 31.01.2025 were found to be imported without valid one time NOC as Master BL has been issued on 04.01.2025. Hence, it was alleged by the department that goods have been imported in violation of Circular dated 20.10.2023 which makes the goods restricted/prohibited for import without valid NOC, for shipments occurring after 03.12.2024, from Ministry of Steel. Hence, due to absence of NOC from Ministry of Steel, goods covered under B/E No. 8109186 dated 31.01.2025 having total assessable value of Rs. 3,91,64,616/- (Rs. Three Crore Ninety-One Lacs Sixty-Four Thousand Six Hundred Sixteen) appeared to be liable for confiscation under section 111(d) and (m) of the Customs Act, 1962. The goods imported vide above Bills of Entry were Seized vide Seizure Memo dated 27.02.2025 under section 110(1)

of the Customs Act, 1962, and handed over to the custodian vide Supurtanama dated 27.02.2025.

3.3 From the investigation conducted in this matter, it was alleged that the forwarder M/s Premji Kanji Masani provided copy of Master Bill to CB vide email dated 17.01.2025 before filing of Bill of Entry but CB did not provide the same to the importer. It appeared to the department that the importer, has attempted to clear goods "Cold Rolled Stainless Steel Coil Grade J2" on the basis of House BL dated 03.12.2024 and NOC issued against House BL. However, as actual shipment is of later date i.e. 04.01.2025, in light of OM dated 03.01.2025 and Circular dated 20.10.2023, goods became prohibited in nature in absence of NOC for shipment occurring after 03.12.2024. The said acts of omission and commission, the respondent has rendered themselves liable for penalty under Section 112(a) of the Customs Act, 1962. The Forwarder M/s Premji Kanji Masani Private Limited provided copy of Master Bill of Lading to CB on 17.01.2025 which showed Laden on Board date as 04.01.2025 on vessel BAO HANG YUN 28. Further, CB was well aware about the fact that Ministry of Steel was not issuing NOC for Bill of Lading issued after 03.12.2024, still, they neither forwarded copy of BL to the importer nor guided him to procure NOC on the basis of Master Bill of Lading and filed B/E on the basis of House Bill of Lading. Further, CB was in possession of Master Bill of Lading before filing of B/E, still, he did not upload it's copy in e Sanchit. The said acts of omission and commission on the part of CB, have rendered him liable for penalty under Section 112(a) of the Customs Act, 1962.

3.4 The Respondent, vide letter dated 25.04.2025, requested for waiver of Show Cause Notice and Personal Hearing in this matter and further requested to clear goods under advance license No. 0511031725 dated 02.04.2025. M/s Oriental Trade Links vide letter dated 25.04.2025 also requested for waiver of Show Cause Notice and Personal Hearing. Consequently, the Adjudicating Authority passed the order on 06.11.2025 wherein he held that impugned

goods valued at Rs. 3,91,64,616/- imported vide BE No. 8109186 dated 31.01.2025 without valid mandatory NOC from Ministry of Steel as mandated vide circular dated 20.10.2023 are prohibited goods and confiscated the same under Section 111 (d) & (m) of the Customs Act, 1962 with an option to the importer to redeem the same for re-export purpose only on payment of redemption fine of Rs.39,00,000/-. He imposed a penalty of Rs. 18,00,000/- the importer and penalty of Rs.5,00,000/- upon the Custom Broker under Section 112 (a)(i) of the Customs Act, 1962. He also rejected the declared quantity of goods from 412524 KG and re-determined it to be 412720 KG.

3.5 Being aggrieved by above order, the respondent filed appeal before the Commissioner (Appeals) who vide order No. MUN-CUSTOM-000-APP-399 to 400-25-26 dated 14.11.2025 allowed their appeal and held in para para 6 as under:-

"6. In view of the above discussion and findings and in light of the judicial principles established by the Hon'ble Supreme Court in M/s Kamlakshi Finance Corporation Ltd. (1991 (55) ELT 433 (SC)), I am bound to follow the judgment of the jurisdictional Hon'ble CESTAT, Ahmedabad, in METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA (2019 (370) E.LT. 392 (Tri. Ahmd.)). Accordingly, I allow the appeals on the preliminary legal ground of limitation under Section 110(2) of the Customs Act, 1962, without going into the merits of the case. The impugned Order-in-Original No. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025, having been passed after the expiry of the statutory period of six months from the date of seizure, is held to be without jurisdiction and is hereby set aside. As a consequence of the seizure becoming illegal after 27.08.2025, the goods are liable to be returned to the Appellant forthwith. The confiscation of the goods, imposition of Redemption Fine, and penalty are set aside. The goods shall be released within 7 days of the receipt of this order.

4. Learned Advocate stated that the factual timeline, which is undisputed by either side, is as follows:

- The goods were seized vide Seizure Memo dated 27.02.2025. The Respondent, vide letter dated 25.04.2025, requested a waiver of the

Show Cause Notice and Personal Hearing, explicitly stating that it was to "ensure an early decision in the matter" and "to save the expense of demurrage and detention."

- The mandatory six-month period for issue of SCN from the date of seizure, as stipulated under Section 110(2), expired on 27.08.2025. Therefore, they requested vide letters dated 09.09.2025 and 20.09.2025 to release the goods, citing lapse of the statutory period.
- Due to inaction and non-return of the goods, the Respondent filed appeal before Commissioner (Appeals) on 06.10.2025 but in the mention, the Adjudicating Authority passed Order-in-Original No. MCH/ADC/ZDC/335/2025-26 on 06.11.2025.

4.1 Section 110(2) of the Customs Act 1962 is reproduced below:

SECTION 110. Seizure of goods, documents and things.

(1) ...

*(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods **shall** be returned to the person from whose possession they were seized:*

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified.

4.2 In above provisions, word "shall" has been issued which signifies that the provision is mandatory, not directory or discretionary and it casts a statutory obligation on the department. This provision provides a specific and dire consequence for inaction: the automatic release of the goods. Further, the legislature's intent is very clear to balance the State's power of investigation with the citizen's right to property. The statute provides one, and only one mechanism to overcome this six-month deadline i.e. a formal extension to be given by the Principal Commissioner or Commissioner, for

reasons to be recorded in writing, and communicated to the party before the expiry of the initial six months. In the present case, it is an admitted fact that no such extension was sought or granted by the competent authority to keep the seizure alive beyond 27.08.2025.

4.3 Respondent relies upon the decision of this Tribunal in *Metco Export International Versus Commissioner of Customs, Kandla 2019 (370) E.L.T. 392 (Tri.-Ahd.)*, wherein following observations have been made:

5. In the aforesaid judgment of Hon'ble Delhi High Court. Hon'ble High Court has observed that even though there is waiver of SCN by the assessee, the adjudication should have been completed within reasonable period i.e. period provided under Section 110(ii), therefore, the observation taken by the Hon'ble High Court is applicable in the present case. As regard the submission of Ld. AR that in the judgment of Shiv Shakti Trading Company (supra), the goods were seized and were not released provisionally whereas, in the present case goods had been released provisionally.

6. In our considered view, that fact will not matter for the reason that Hon'ble High Court has decided the issue on the basis that the adjudication should have been completed within the reasonable period, therefore, the difference of this fact will not have any impact in applicability of this judgment in the present case Accordingly, following the judgment of Hon'ble High Court as cited above, we set aside the impugned order and allow the appeal.

4.4 They have imported J2 grade stainless steel coils which are outside the purview of steel and steel products (quality control) order, 2024 as is evident from the letter dated 13.09.2024 issued by Ministry of Steel to M/s Swastic Overseas, Sonapat, Haryana who had imported similar goods. Para 2 of the said letter is reproduced below:-

"2.0 in the above connection, it is informed that the matter has been examined by the technical committee comprising officials from Bureau of Indian standards and domain experts. It is noted the following grade is presently outside the purview of steel & steel products (quality control) order, 2024;

Sr. No.	Description of the item/product	Grade
1	Cold rolled stainless steel coil	Grade J2

"

In view of above, goods imported by respondent are not covered under purview of Steel and Steel Products (quality control) order, 2024 and there is no violation of circular dated 20.10.2023

4.5 The Respondent placed order on Overseas Supplier in September, 2024 and when information was received that goods have been sent to the shipper and BL was forwarded he applied for NOC from Ministry of Steel and made payment to the Overseas Supplier. In response, Ministry of Steel vide letter No. NOC2024004662 dated 16.12.2024 stated that one time relaxation is granted where bill of lading is already generated on or before 3rd December, 2024. It also states that this waiver is given as one time opportunity in view of possible financial loss to large number of importers. This letter is much before Ministry of Steel OM dated 03.01.2025 and therefore, goods imported by them are covered by NOC dated 16.12.2024. The department has not challenged genuineness of House Bill of Lading issued by the forwarder.

4.6 The order of the adjudicating authority mentions of an email dated 13.02.2025 sent to Dy. Secretary, Ministry of Steel for further clarification in this matter and their response vide email dated 20.02.2025. The said reply is reproduced as under:-

"the initial decision to grant a one-time NOC/exemption for steel imports applied only to cases where the steel had already arrived at Indian ports or the Master Bill of Lading had been generated on or before December 3, 2024. This one-time provision was closed on December 21, 2024,

Paragraph 2 highlights concerns that some importers are attempting to circumvent this requirement by obtaining a House Bill of Lading dated on or before December 3, 2024, while the actual shipment (evidenced by the Master Bill of Lading) occurred after that date. This practice is not in compliance with the one-time exemption provision.

Therefore, to reiterate, the one-time NOC/exemption applied exclusively to shipments where the Master Bill of Lading was issued on or before December 3, 2024. House Bills of Lading with earlier dates for shipments occurring after December 3, 2024, do not qualify for this exemption. The request in paragraph 3 aims to prevent such fraudulent circumventions"

4.7 The Respondent submits that email dated 20.02.2025 created difference between the house bill of lading and master bill of lading. There is no allegation that house bill of lading dated 03.12.2024 is forged by the respondent. The bill of entry is dated 31.01.2025 and thus, any clarification or instruction cannot be applied retrospectively and the imported goods cannot be treated as prohibited based on any new restriction placed after the date of bill of lading or date of import of goods."

4.8 Learned Advocate pointed out that the circular referred by the department is of Ministry of Steel which in fact is putting restraints on the trade in so far as even the items which are not covered by BIS standards have also, been made restricted simply by issue of a letter/ circular in which it does not even indicate as to under what legal authority, such circular has been issued which has the effect of restricting the trade. He relies on the decision in the matter of Atul Commodities Pvt Ltd Vs. Commissioner of Customs, Cochin as reported in 2009 (235) ELT 385 (SC) to emphasize that any change to make any item from free to restricted can only be done by an amendment in the law or force of it. As in that case also it was clearly mentioned that DGFT cannot change categorization vide circular. He states that circular No. S-20011/14/2021/TECH dated 28.10.2023, does not indicate that further restrictions apart from notifying BIS under Steel product Quality Control Order, regarding non BIS product has been made and NOC from technical committee has been prescribed not under any law or even by amending the BIS standard or the Quality Control Order under BIS Act, 2016 for the non-BIS products also. He states that there has to be amendment to the policy or under a law and further restriction from free to restricted etc. cannot be carried out, vide DGFT circulars only as per the ratio of aforesaid decision of the Apex Court.

He also submits that such circular has to fall within the ambit of and has to be consistent with parallel law under which power was derived and cannot impose any additional restriction as was laid down in 2022 (381) ELT 757 (Bom.) in the matter of Smarty Solutions Pvt Ltd Vs. UOI. This general principle of law is equally applicable to the circular dated 28.10.2023 issued by Ministry of Steel. He also relied upon the decision in the matter of UOI Vs. Intercontinental India Pvt Ltd. reported at 2008 (226) ELT 16 (SC) that any circular which lays down or restricts trade has to be held contrary to the notification or law.

4.9 He relies on the decision in the matter of Kerneos INDIA Aluminate Technologies Pvt Ltd Vs. UOI reported at 2022 (379) ELT 458, (Andhra Pradesh) to indicate that where BIS standards are not notified, any item cannot fall within the ambit of prohibitions specified in Cement Quality Control order 2003 as such production of BIS certifications was not applicable to imported goods in the case. Anything which is not notified in official gazettee by Central Government mandating BIS standards cannot be subjected to import restrictions by virtue of a circular only. He also relied upon the decision of Soni India Pvt Ltd Vs. Commissioner of Customs New Delhi reported at 2014 (304) ELT 660 (Delhi) specially para 17 to emphasize that essential legislative policy and substantive rights cannot be circumvented by a subordinate legislation and same has to be by main legislation. Substantive restriction, he emphasized therefore cannot be placed by a departmental circular and therefore, circular of the Ministry of Steel subjecting non-BIS standardized goods to NOC by Committee in each case was incorrect for want of legislature mandate. He also relies on decision in South Gujarat Warp Knitters Association Vs. UOI as report in 2025 (391) ELT 76 (Gujarat) to emphasize that the agency like DGFT has no power to amend Foreign Trade Policy itself.

4.10 The respondent also seeks reliance on decision in the matter of Intel Cost Pvt Ltd Vs. UOI reported at 2017(345) ELT 2017 (Gujarat) to emphasize that clarification through a circular cannot amend an entry to bring about restrictions. He also pointed out that it is a trite law, as has also been laid down in 2007(208) ELT 321 (SC) in the matter of Suchitra Components Ltd Vs. Commissioner of Central Excise Gangtok that beneficiary circular has to be applied retrospectively while a special circular is applied prospectively.

4.11 He pointed out that in the matter of Shivshakti Trading Co. Vs. Commissioner of Customs (Preventive) (cited supra), it has been laid down by Hon'ble High Court of Delhi in clear terms that where waiver of show cause notice is granted which is normally done in expectation of expeditious adjudication, same should be completed within reasonable time and which the Hon'ble Delhi High Court has held to be six months from the date of such seizure. If the adjudication order is not passed within the period of six months, from the date of seizure, person waiving the right to be given a show cause notice, can no longer be held bound by such waiver. The consequence would be the same as is envisaged in Section 110(2) of the Act, i.e. immediate unconditional release of the goods in favour of the person from whom such goods have been seized. This decision was followed by this Bench (different constitution) in the matter of Metko Export International Vs. Commissioner of Customs, Kandla, where adjudication order was similarly delayed. He therefore points out that the goods have rightly been directed to be released by the learned Commissioner by setting aside the order of the lower authority both on merits (considering the dates of bill of lading) as well as on liberal view for lack of adjudication. He therefore justified the order of the Commissioner (Appeals) allowing them the release of goods.

4.12 He further points out that in the case of Deepak Natwarlal Soni Vs. UOI as reported in 2019 (368) ELT 27 (Guj.), Hon'ble High Court directed release of goods seized under Section 124, when show cause notice was not issued

within 6 months of seizure. The show cause notice stated to be served by the department, by dropping inside the house of petitioner, Hon'ble High Court held that mere issuance of dispatch of notice would not amount to giving of notice. The right of issuance of show cause notice for adjudication if delayed and if deserves a particular remedy, the same cannot be denied.

5. The respondent vide letter dated 28th January, 2026 further submitted that Circular dated 20.10.2023 issued by the Ministry of Steel is without authority of law and cannot be relied upon by department as it provides for seeking NOC for all steel products regardless of whether quality control order is applicable on said steel grades or not. This is in direct contradiction with Section 15, Section 16 read with Section 25 of the BIS Act. Further, there is no provision for NOC under the whole BIS Act. Further, imported goods are not covered under the Steel and Steel Products (Quality Control) Order, 2024 and so, these are not restricted goods. Further, NOC issued to the Respondent covers the imported goods and thus, there is no violation of Circular dated 20.10.2023. The email dated 20.02.2025 issued by the Ministry of Steel cannot be applied retrospectively to create distinction between House bill of lading and Master Bill of lading. The goods wherein House Bill of Lading date is prior to 03.12.2024 are also allowed to be imported.

6. The learned AR vide his submissions dated 23rd January, 2026 made the following points:-

- Ministry of Steel has vide order dated August 29, 2024 published Steel and Steel Products (Quality Control) Order, 2024 which were to be implemented with immediate effect i.e. August 29, 2024. As per this order, steel and steel products specified in column 3 of Schedule 1 of the said order shall conform to the corresponding Indian Standards specified in column (2) of the said Schedule. The goods falling under HS Code 72193590 having specification of goods as "Stainless Steel Sheets

and Strips for Utensils-Specification" provided therein which shall conform to IS 5522:2014.

- Ministry of Steel issued an Office Memorandum dated 03.01.2025 w.r.t circumvention of directive issued by Ministry of Steel for issuance of NOC's on one-time basis for shipments where Bill of Lading has been generated on or before 3rd December, 2024 (copy attached). It has been mentioned that the Ministry has received representation that many importers were trying to circumvent the requirement by getting a House Bill of Lading issued with date on or before 3rd December 2024 whereas the actual shipment is of a later date.
- On the basis of EDI data, it was found that the respondent filed B/E No. 8109186 dt. 31.01.2025 declaring goods as "Cold Rolled Coils Stainless Steel Coil Grade J2" having HS Code 72193590 wherein Bill of Lading was issued on or before 03.12.2024.
- An E-mail dated 07.02.2025 was sent to the shipping line M/s Wan Hai Lines (India) Private Limited for providing copy of Master Bill of Lading issued in case of respondent. Vide their reply received on 07.02.2025, Master Bill of Lading dated 04.01.2025 issued in case of M/s Khatu Shyam Steel was provided. Thereafter, e-mail dated 13.02.2025 was sent to Deputy Secretary, Ministry of Steel for further clarification on the issue which was replied on 20.02.2025. The Ministry of Steel intimated that: *"the initial decision to grant a one-time NOC/exemption for steel imports applied only to cases where the steel had already arrived at Indian ports or the Master Bill of Lading had been generated on or before December 3, 2024. This one-time provision was closed on December 21,2024."*
- In the light of above, imported goods are prohibited as they do not have a valid IS 5522:2014 license attached/marked as provided in Steel and Steel Products (Quality Control) Order, 2024 dated August 29, 2024. The respondent obtained one time NOC on the basis of improper documents

i.e. House Bill of Lading dated 03.12.2024 whereas as per by Ministry of Steel, e-mail dated 20.02.2025, one time NOC/exemption for steel imports is applicable where Master Bill of Lading was issued on or before December 03, 2024. As Master Bill of Lading was issued to respondent on 04.01.2025, one time NOC is not available to them.

- Vide letter dated 15.07.2025, the importer had requested for re-export of goods which was allowed on payment of Redemption Fine of Rs. 39,00,000/- vide Order in Original dated 06.11.2025. The Additional Commissioner of Customs, Mundra also imposed penalty of Rs. 18,00,000/- on the importer under Section 112(a)(i) of the Customs Act, 1962.
- The respondent's request for clearance of goods for home consumption is not allowable as the imported goods are prohibited without any valid BIS license. He distinguishes decision in case of M/s Shiv Shakti Trading Company on the ground that no adjudication order was passed in that case even after a period of 1 year from the seizure date whereas here, matter has already been adjudicated in less than 4 months from the respondent's request dated 14.07.2025 for re-export of the goods.

7. We have gone through the records and various submissions made by both the sides. We find that the department has filed appeal against Commissioner (Appeals)'s order, who on the basis of non-issuance of show cause notice or adjudication within six months from the seizure date of 20.02.2025, vacated the seizure and ordered release of the goods. The goods having description, 'Cold Rolled Stainless Steel Coils Grade J2' were imported from China on the basis of House bill of lading dated 03.12.2024. The department found that House bill of lading was issued on 03.12.2024 but the goods were shipped on 04.01.2025. Therefore, suspecting that there may have been circumvention of circular of Ministry of Steel, it started inquiry about various dates of bills of lading and whether clarification issued by

Ministry of Steel regarding one time NOC exemption to shipments related to master bill of lading or house bill of lading issued on or before 03.12.2024 was applicable or not? The consignment was put on hold on 20.01.2025. The operative portion of the impugned order is contained in para 5.4 as follows:-

"5.4 The factual timeline, which is undisputed by either side, is the cornerstone of this issue. It is as follows:

- *Date of Seizure: The goods were seized vide Seizure Memo dated 27 02 2025*
- *Waiver of SCN: The Appellant, vide letter dated 25.04.2025, requested a waiver of the Show Cause Notice and Personal Hearing. explicitly stating it was to ensure an early decision in the matter and "to save the expense of Demurrage and detention.*
- *Expiry of Statutory Period: The mandatory six-month period from the date of seizure, as stipulated under Section 110(2), expired on 27-08 2025.*
- *Appellant's Request for Release: After the expiry of the six-month period, the Appellant filed requests (e.g., letters dated 09.09.2025 and 20.09.2025) for the release of the goods, citing the lapse of the statutory period.*
- *Filing of First Appeal: Being #ggrieved by the department's inaction and non-return of the goods, the Appellant filed the first appeal (8/49-332/CUS/MUN/OCT/25-26) on 06.10.2025.*
- *Date of Impugned Order. The Adjudicating Authority passed the impugned Order-in-Original Nc. MCH/ADC/ZDC/335/2025-26 on 06.11 2025.*

5.5 The relevant statutory provision at the heart of this dispute is Section 110(2) of the Customs Act, 1962, which reads:

SECTION 110. Seizure of goods, documents and things. (1) ... (2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (a) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified.

5.6 A plain and literal interpretation of this provision reveals several critical aspects :

a) *The use of the word 'shall' ('shall be returned') signifies that the provision is mandatory, not directory or discretionary. It casts a statutory obligation upon the department*

b) *the provision provides a specific and dire consequence for inaction: the automatic release of the goods*

c) *The legislatures intent is clear to balance the State's power of investigation with the citizen's right to property. It serves as a crucial safeguard against the executive holding onto seized property indefinitely without initiating adjudication.*

d) *The statute provides only one, and only one, mechanism to overcome this six-month deadline: a formal extension by the Principal Commissioner or Commissioner, for reasons to be recorded in writing, and communicated to the party before the expiry of the initial six months*

5.7 *In the present case, it is an admitted fact that no such extension was sought or granted by the competent authority. The department, therefore, failed to exercise the sole statutory remedy available to it to keep the seizure alive beyond 27.08.2025. This leads to the central question: Does the Appellant's waiver letter dated 25.04.2025 override this mandatory statutory provision and grant the department unlimited time to adjudicate?*

5.8 *The Adjudicating Authority has implicitly proceeded on the assumption that it does. I find this assumption to be legally erroneous The Appellant waived their procedural right to receive a formal Show Cause Notice and be heard in person, as provided under Section 124. This waiver was explicitly conditional, as stated in their letter, and was tendered to ensure an early decision. It cannot be logically or legally construed as an intentional relinquishment of their substantive right under Section 110(2) to have their property returned if adjudication is not initiated within the statutory timeframe A waiver to expedite a proceeding cannot be interpreted as a license to indefinitely delay it.*

5.9 *This precise legal question has been authoritatively settled by the Hon'ble High Court of Delhi in the case of M/s. Shiv Shakti Trading Company v Commissioner of Customs (Preventive) [2016 (336) E.L.T. 415 (Dell)]. The Appellant has rightly relied on this judgment, which is binding in its precedential value. The Hon'ble Court held:*

"23. Considering that the time limits for issuance of an SCN in terms of Section 110(2) are sacrosanct, if at the time of seizure of the goods there is waiver by the person from whom the goods were seized... in the expectation of an expedited adjudication, then the reasonable time within which the adjudication should be completed should be six months from the date of such seizure. If, despite the waiver of the right to be given an SCN, no adjudication order is passed within the period of six months from the date of seizure, the

person waiving the right to be given an SCN can no longer be held bound by such waiver. The consequence would be the same as is envisaged by Section 110(2) of the Act i.e., the immediate unconditional release of the goods..."

5.10 The ratio decidendi of this judgment is that the waiver of an SCN does not absolve the department of its duty to adjudicate within the "reasonable period", which is six months. The waiver and the time limit are linked: the department is expected to honor the quid pro quo of the waiver by completing the adjudication within that six-month period. If it fails, the waiver becomes ineffective, and the statutory consequence of Section 110(2) takes full effect.

5.11 This principle has been consistently upheld and has been adopted by the jurisdictional Hon'ble CESTAT Ahmedabad, in METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA [2019 (370) E.L.T. 392 (Tri. Ahmd.)]. In this case, the Tribunal, while following the Shiv Shakti (supra) judgment, held:

"6 In our considered view, that fact will not matter for the reason that Hon'ble High Court has decided the issue on the basis that the adjudication should have been completed within the reasonable period, therefore, the difference of this fact will not have any impact in applicability of this judgment in the present case. Accordingly, following the judgment of Hon'ble High Court as cited above, we set aside the impugned order and allow the appeal."

5.12 Applying this settled law to the undisputed facts of the present case it is observed that:

a) The department had a six-month window from 27.02.2025 to 27.08.2025 to complete the adjudication, especially since the Appellant had waived the SCN.

b) The department failed to pass any order by 27.08.2025.

c) By operation of law, on 28.08.2025, the seizure of the goods became illegal and void. The department lost all legal authority to continue to hold the goods, and they were statutorily liable to be returned.

d) The Adjudicating Authority had, by 28.08.2025, become functus officio with respect to the adjudication of the seized goods, as the seizure itself, which is the foundation of the adjudication, had lapsed.

5.13 The impugned Order-in-Original, passed on 06.11.2025, was therefore an act of adjudication upon goods over which the department had lost its legal hold. Any proceeding that rests on an illegal seizure is non-est in law. The order was passed without jurisdiction and is a nullity.

5.14 In light of this finding, the appeals must be allowed on this preliminary ground alone. It is, therefore, not necessary for me to delve into the merits of the case, including the complex questions regarding the interpretation of the

Ministry of Steel's circulars, the validity of the NOC, the alleged circumvention, or the legal distinction between a House Bill of Lading and a Master Bill of Lading for the purpose of such circulars. The entire case fails on the ground of limitation.

6. *In view of the above discuss on and findings and in light of the judicial principles established by the Hon'ble Supreme Court in M/s Kamlakshi Finance Corporation Ltd. (1991 (55) ELT 433 (SCJ). I am bound to follow the judgment of the jurisdictional Hon'ble CESTAT, Ahmedabad, in METCO EXPORT INTERNATIONAL Versus COMMISSIONER OF CUSTOMS, KANDLA [2019 (370) E.L.T. 392 (Tri. Ahmd.)]. Accordingly, I allow the appeals on the preliminary legal ground of limitation under Section 110(2) of the Customs Act, 1962, without going into the merits of the case. The impugned Order-in-Original No. MCH/ADC/ZDC/335/2025-26 dated 06.11.2025, having been passed after the expiry of the statutory period of six months from the date of seizure, is held to be without jurisdiction and is hereby set aside. As a consequence of the seizure becoming illegal after 27.08.2025, the goods are liable to be returned to the Appellant forthwith. The confiscation of the goods, imposition of Redemption Fine, and penalty are set aside. The goods shall be released within 7 days of the receipt of this order."*

7.1 Feeling aggrieved by the order which gives relief on the ground that show cause notice was not issued within 6 months from seizure date by following the decision of Hon'ble High Court of Delhi in ShivShakti Trading Company Vs. Commissioner of Customs (Preventive) reported at 2016 (336) ELT (415) (Del.) the Revenue has filed this appeal. We find that Commissioner following the above decision gave relief by allowing imported goods to be released without any fine, penalty etc. The relevant para 23 to 25 of the decision in Shivshakti case are reproduced below:-

"23. *Considering that the time limits for issuance of an SCN In terms of Section 110(2) are sacrosanct, If at the time of seizure of the goods there is waiver by the person from whom the goods were seized, or the owner of the right to be given an SCN, in the expectation of an expedited adjudication, then the reasonable time within which the adjudication should be completed should be six months from the date of such seizure. If, despite the waiver of the right to be given an SCN, no adjudication order is passed within the period of six months from the date of seizure, the person waiving the right to be given an SCN can no longer be held bound by such waiver. The consequence would be the same as is envisaged by Section 110(2) of the Act Le., the immediate unconditional release of the goods in favour of the person from whom the goods have been*

seized. Notwithstanding such unconditional release, it will still be open to the Department to proceed under Section 124 and complete the adjudication for which there is no specified time limit.

24. *Another possible scenario is where, despite the waiver, no adjudication order is passed within a period of six months of the seizure. In such event, it may still be open to the Department to issue an SCN before the expiry of six months, or within the extended period as envisaged in Section 110(2) of the Act. In such event, it will be open to the Petitioner to avail the procedure under Section 110A of the Act to seek provisional release of the goods.*

25. *In the present case, despite the waiver by the Petitioner of the right to be given an SCN in terms of Section 110(2) of the Act, no adjudication order was passed for a period of one year after the seizure. The Petitioner could, therefore, not be bound by such waiver after the expiry of the time limit under Section 110(2) of the Act. In the circumstances explained hereinabove, there was no justification for the Respondents to continue to detain the goods seized."*

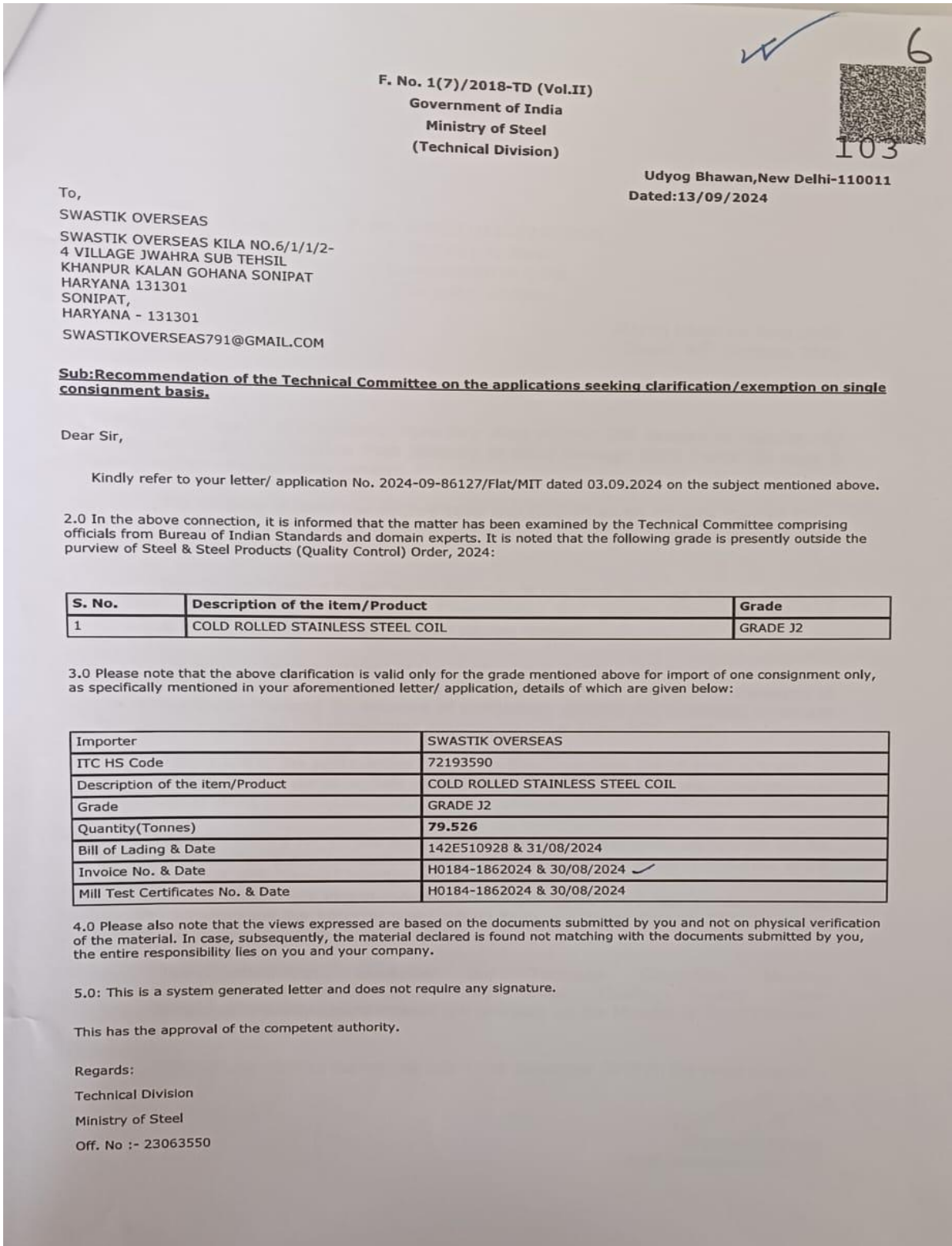
7.2 Learned Commissioner (Appeals) also relied upon the decision of Metco Export International Vs. Commissioner of Customs, Kandla reported in 2019 (370) ELT (Tri.- Ahmd.) especially para 5 and 6 of the decision.

"5. In the aforesaid judgment of Hon'ble Delhi High Court, Hon'ble High Court has observed that even though there is waiver of SCN by the assessee, the adjudication should have been completed within reasonable period i.e. period provided under Section 110(ii), therefore, the observation taken by the Hon'ble High Court is applicable in the present case. As regard the submission of Ld. AR that in the judgment of Shiv Shakti Trading Company (supra), the goods were seized and were not released provisionally whereas, in the present case goods had been released provisionally.

6. In our considered view, that fact will not matter for the reason that Hon'ble High Court has decided the issue on the basis that the adjudication should have been completed within the reasonable period, therefore, the difference of this fact will not have any impact in applicability of this judgment in the present case. Accordingly, following the judgment of Hon'ble High Court as cited above, we the impugned order and allow the appeal."

7.3 We find that the decision in respect of goods cannot be faulted with in the instant case and the seizure gets vacated if show cause notice is not issued within the statutory limits of six months provided in Section 110. The view is

fortified by the decision in the matter of Deepak Metal alloys Vs. UOI as reported in 2019 (368) ELT 47 (Guj.). It is thus clear that even when show cause notice is waived in view of the decision of Hon'ble Delhi High Court in M/s. Shiv Shakti (cited supra), the proceedings are required to be more expeditiously concluded and adjudication cannot be delayed beyond six months and the waiver given will no more be binding after expiry of the time limit under Section 110 of the Act. We, therefore on this point find no infirmity in the order of the Commissioner (Appeals) in giving relief to the party. Now to answer next question, which has been raised in the grounds of appeal, we agree and make it clear that as per the decision, liberty has been granted to complete adjudication if there is no specified limit, but in relation to other aspects like penalties etc to be considered which is an action in-personam as against the goods which is an action in- rem and comes in the ambit of Section 110, vide which release of goods has been correctly ordered. We find that the goods were found in accordance with above stated description given by the importer of 'Cold Rolled Stainless Steel Coils Grade J2' which clearly is not a restricted item as per the technical committee of the BIS and domain experts and for which NOC was also granted to other parties. One such NOC issued to M/s Swastik Overseas vide letter dated 13.09.2024 is reproduced below:-



7.4 A similar NOC has also been given dated 16.12.2024 to the appellants in respect of bill of lading bearing following details:-

Sl. No.	NOC Consignment No,	BOL Number	BOL Quantity (Net Wt. In MT)	BOL Date
1	NOC2024004662_A	FS-241205001	412.524	03/12/2024

7.5 It is thus clear that the item per se with the description 'Cold Rolled Stainless Steel Coils Grade J2' is not an item under control order nor is at

present subjected to BIS standards. The same therefore cannot be stated to be prohibited or restricted in any manner but has only been subjected to greater scrutiny vide circular of Ministry of steel dated 26.10.2023 which is reproduced as below:-

F. No. S-20011/14/2021-TECH

Ministry of Steel Government of India

Technical Division

Udyog Bhawan, New Delhi

Dated: 26 October, 2023

CIRCULAR

Subject: All the steel importers importing steel without BIS license to mandatorily apply and seek clarification from Ministry of Steel through QCO Portal for each & every imported steel consignment.

The Ministry of Steel has notified Steel and Steel Products (Quality Control) Order under the BIS Act, 2016. Periodically the Ministry issues such QCO orders to cover more grades of steel and related products.

The Quality Control Order mandates that all the steel products imported into the country must be having BIS license / certification and accompanied with Mill Test Certificate and be marked with ISI and BIS license number.

For smooth implementation of the Quality Control Order, the Ministry of Steel has constituted a Technical Committee (w.e.f. October 2018) for examination and analysis of the application(s) received for issuance of clarification, whether the product(s) which are being imported without BIS certification are covered under Steel QCO or not.

For issuing of the said clarifications to the steel importers, the Ministry of Steel has launched a dedicated portal, known as TCQCO Portal (<https://to-qoo.steel.gov.in/tc-qco>) w.e.f. August 2020,

It is mandatory for all the steel importers to apply and seek clarification on the aforesaid dedicated portal for each & every steel consignment which is imported in the country without BIS license/ certification. It is clarified that the Ministry of Steel issues clarification for each single import consignment. In this regard it is further clarified for each & every consignment the importer need submit fresh application through TCQCO portal, unless stated otherwise in the clarification issued.

The information regarding (<https://steel.gov.in/technical-committee>) the and Committee Meeting Order Technical Steel Quality Control (<https://steel.gov.in/quality-control-orders>) are available on the Ministry of Steel's website as well as on the TCQCO Portal.

This circular clarifies the circular dated 20th December 2018 on the same subject."

7.6 As a sequel to this circular, the order was issued dated 20.11.2025 which is reproduced below:-

F. No. S-20011/33/2025-TECH

Ministry of Steel

Government of India

Technical Division

Udyog Bhawan, New Delhi

Dated: 20 November, 2025.

ORDER

Subject: Revocation of requirement of clarification/No Objection Certificate from Ministry of Steel for import of grades of steel not covered by Quality Control Order of Ministry of Steel - reg

As per Circular dated 20th October, 2023 of Ministry of Steel, import of grades of steel under any HSN Code, for which Quality Control Order has been issued by Ministry of Steel, were requiring clarification or No Objection Certificate from Ministry of Steel. The matter has been reviewed by Ministry of Steel as per recommendation made by High-Level Committee on Non-Financial Regulatory Reforms (HLC-NFRR), and it has been decided that grades of steel not covered by Quality Control Order of Ministry of Steel will not require any clarification or No Objection Certificate from Ministry of Steel.

2. To facilitate implementation of this decision, grades of steel not covered by Quality Control Order of Ministry of Steel under all HSN Codes related to Ministry of Steel have been mapped on the Steel Import Monitoring System (SIMS) Portal. Any importer can generate a SIMS number for such grades of steel, which are not covered by Quality Control Order issued by Ministry of Steel, through the SIMS Portal and will not require any clarification or No Objection Certificate from Ministry of Steel.

3. Custom Authorities are being advised accordingly."

7.7 The department is of the view that these circulars made these items as restricted/ prohibited and therefore, by producing house bill of lading dated 03.12.2024 and not the master bill of lading, there was violation of the aforesaid circular read with an email dated 13.02.2025 to the Deputy Secretary Ministry of Steel seeking clarification. Further clarification on the issue was given vide reply dated 28.02.2025 as under:-

"the Initial decision to grant a one-time NOC/exemption for steel Imports applied only to cases where the steel had already arrived at Indian ports or the Master Bill of Lading had been generated on or before December 3, 2024. This one-time provision was closed on December 21, 2024,"

Above, therefore wrongly led the department to believe that the goods were imported despite restriction and therefore, their release in India was improper.

7.8 We find that the same has been vehemently and correctly opposed by the Advocate for the respondent, on the ground that for Grade J2, department has not been able to show that under which Control Order of the Ministry of Steel i.e. the Steel and Steel products (Quality Control Order) any restriction was applied on the 'Cold Rolled Stainless Steel Coils Grade J2'. There is nothing on record to show that BIS standards have been applied for the above goods which can only be prescribed under laid down procedure under World Trade Organization (W.T.O.) in relation to technical standards to be prescribed on the principles of equal treatment to all the countries at the import point as well as National Treatment. The same needs to be notified by following due process by making them available on a designated website to various countries. Firstly, the Advocate submitted that the control order does not cover 'Cold Rolled Coils of Stainless Steel Grade J2'. Secondly, even if, the above circulars placed additional restriction of getting NOC from the Ministry of Steel for the kind of grade which has been imported and whether the same was covered with the requirement of BIS standards. Same it, therefore meant that the restrictions placed by the law i.e. Steel & Steel products (Control) Order

were being extended by way of aforesaid circulars by the mandate of executive, without there being such restrictions in law. In fact, customs is itself calling such unwarranted procedures as restrictions/prohibitions.

7.9 The second opposition of the Advocate for the respondent is that in absence of any kind of legal restriction for the kind of grade which was imported by the respondent, same were required to be released on violation of Provisions of Section 110 of the Customs Act for non-issuance of show cause notice with in stipulated period. The submissions of the department that the goods were prohibited/restricted are totally misplaced and incorrect as (i) they were not shown to be covered by the BIS standards (ii) NOCs for the similar kind of goods were being issued by the Ministry of steel (iii) the goods were duly identified to be correct as far as description is concerned by carrying out test for identification i.e. positive Metal identification (PMI) test conducted with the help of PMI gun, which indicated in the result all the ingredients of the grade of steel imported and same was found to be correct by the Customs. It was also pointed out and is agreed upon by us that the identification of goods imported is a task assigned to customs department at the port of importation, and same cannot be taken over by any other agency without operation of law. The Customs department has all labs to scientifically test any product for its composition for this purpose.

7.10 It was also pointed out that circular cannot place any further restrictions on any goods without force of law and law to this extent is quite settled by now. He relied upon the following case laws to buttress his argument:-

- UOI Vs. Inter Continental (India) (cited supra) to support the proposition that department by issuing a circular cannot add new conditions to the notification thereby restricting the scope of a notification or whittling it down.
- Atul Commodities Pvt. Ltd. Vs. Commissioner of Customs, Cochin 2009 (235) ELT 385 (SC) which emphasized that DGFT is empowered to

interpret policy. It cannot change categorisation of the goods from free to restricted which power is vested in the legislature only.

- Kerneos India Aluminate Tech. Pvt. Ltd. Vs. Union of India, (cited supra) which held that till the time, for a commodity BIS standard has been notified, the same cannot be applied to goods imported.
- South Gujarat Warp Knitters Association Vs. Union of India, 2025 (391) E.L.T. 76 (Guj.), which held that the DGFT had no power to amend/update foreign trade policy itself and its power is restricted to interpret procedures laid down.
- Intolcast Pvt. Ltd. v. Union of India, 2017 (345) E.L.T 217 (Guj.) which held that in the guise of clarification, any entry cannot be amended by DGFT in the Exim policy.

7.11 He also pointed out that the circular dated 20th November, 2025, which held that grade of steel not covered by quality control order of Ministry of Steel will not require any clarification or NOC from Ministry of Steel was retrospective in effect, being a beneficial circular as laid down in 2007(208) ELT 321 (SC) in the matter of Suchitra Components Ltd Vs. Commissioner of central Excise, Guntur. It was thus his point of emphasis that unless the department shows that Grade J2 was and is covered under Quality Control Order of Ministry of Steel, firstly no NOC in any case is required and also that the restriction placed of NOC for non-covered grades under BIS was not something which could be provided only by a circular.

7.12 We have also noted that similar imports have been made at other ports also and hereunder extract the orders from CM APPL. 76571/2024 (for compliance) in Writ Petition (C) 16801/2024 for similar goods have been released elsewhere and were directed to be released by the Hon'ble Delhi High Court from ICD, Dadari also in India. The order dated 10.02.2025 in WPC No. 16801/2024 is reproduced below to bring the position at other ports:-

"The Court vide order dated 24th December, 2024 having considered the matter and the aforesaid applications, passed the following directions:

"7. The order dated 16th December, 2024, is clear that in terms of the Ministry of Steel's NOC/Exemption dated 6th December, 2024, the subject goods have to be released from ICD, Dadri. If there is any doubt as to the grade of steel being imported, the Petitioners are free to submit the 'Spectra Gun testing' report, which is in their possession in respect of the goods imported and tested at other ports, to the Customs Department to enable them to release the goods forthwith from ICD, Dadri.

8. In fact Mr. Dixit Ld. Counsel submits that it is puzzling as to why ICD Dadri is not resorting to Spectra Gun testing as until August 2024, they used to use the same method for testing the grade of steel.

9. Accordingly, if the ICD, Dadri wishes to get separate testing done, they would resort to Spectra Gun testing which is also an acceptable mode of testing. In either case, the release of the subject goods shall be effected after the testing, by 27th December, 2024.

10. Any further delay would result in stringent orders being passed against the concerned officials.

11. Let a compliance report be filed, if required, by the Customs Department.

4. Today, Mr. Harpreet Singh, Ld. SSC for the Respondents submits that the goods of the Petitioner have been released and that there is no consignment which is pending to be released. Ld. Counsel for the Petitioner confirms the same.

5. Considering the above, in the interim applications being CM APPL. 71264/2024 and CM APPL.76571/2024 no further orders are called for."

It is thus clear that the goods are not prohibited and are liable to be released in India as the Learned Commissioner (Appeals) has ordered. We therefore, find no infirmity in the order but are refraining from pronouncing on whether the Circular by the Ministry of Steel was issued under due authority of law or extended the scope of the restrictions without the statutory authority. While department emphasized that action in personam will still survive, after release of goods. We find that it can only be pressed by the department, if it finds tangible violations of some law prescribing and making such imports restricted and prohibited only on the basis of BIS standards or a statutory Control Order and not without such conclusion. Appeal by the department is therefore

dismissed. Miscellaneous application also disposed of. Goods to be released within 10 days of the receipt of order.

8. Appeal dismissed.

(Pronounced in the open court on 04.02.2026)

**(SOMESH ARORA)
MEMBER (JUDICIAL)**

**(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)**

Raksha